

Introduced by Senator Speier

March 15, 2005

Senate Joint Resolution No. 5—Relative to food recalls.

LEGISLATIVE COUNSEL'S DIGEST

SJR 5, as introduced, Speier. Food recalls.

This measure would memorialize the President and the Congress of the United States to give the USDA and the FDA the authority to implement a mandatory food recall system.

Fiscal committee: no.

1 WHEREAS, According to the Centers for Disease Control,
2 tainted foods cause an estimated 76 million illnesses in the
3 United States each year, resulting in 325,000 hospitalizations and
4 5,000 deaths; and

5 WHEREAS, In January 2004, the President of the United
6 States identified the nation's food supply as vulnerable to
7 intentional acts of terrorism (Homeland Security Presidential
8 Directive/ HSPD9 Defense of United States Agriculture and
9 Food (January 30, 2004)); and

10 WHEREAS, All food recalls are voluntary and federal
11 agencies responsible for food safety have no authority to compel
12 companies to carry out recalls, with the exception of the Food
13 and Drug Administration's authority to require a recall for infant
14 formula; and

15 WHEREAS, The United States Department of Agriculture
16 (USDA) provides only guidance to companies for carrying out
17 voluntary food recalls of meat, poultry, and egg products and
18 monitors those recalls; and

1 WHEREAS, The Food and Drug Administration (FDA)
2 provides only guidance to companies for carrying out recalls of
3 other foods and monitors those recalls; and

4 WHEREAS, The United States Government Accountability
5 Office (GAO) formally recommends that Congress give the
6 USDA and FDA authority to issue a mandatory food recall order,
7 establish recall requirements, and impose monetary penalties or
8 seek fines or imprisonment for failing to follow food recall
9 requirements; and

10 WHEREAS, According to the GAO analysis of recalls in its
11 October 2004 report “Food Safety: USDA and FDA Need to
12 Better Ensure Prompt and Complete Recalls of Potentially
13 Unsafe Food,” only 38 and 36 percent of food was ultimately
14 recovered in recalls overseen by the USDA and FDA,
15 respectively; and

16 WHEREAS, According to the same GAO report, “the USDA
17 and FDA do not know how promptly and completely the
18 recalling companies, their distributors, and other companies are
19 carrying out recalls, and neither agency is using its data systems
20 to effectively track and manage its recall programs; and

21 WHEREAS, In addition to our voluntary food recall program
22 nationwide, in 2002, the California Department of Health
23 Services signed a Federal Memorandum of Understanding
24 (MOU) with the USDA, that prohibits state and local health
25 officials from publically identifying the locations where recalled
26 meat has been distributed or sold in California; and

27 WHEREAS, In contrast to the voluntary food recall programs
28 at USDA and FDA, other agencies have authority to issue
29 mandatory recall orders; and

30 WHEREAS, The Consumer Product Safety Commission has
31 had mandatory recall authority since 1972 for over 1500 nonfood
32 consumer goods, including toys and exercise equipment, and
33 successfully recalls 200 to 300 hazardous products per year; and

34 WHEREAS, The FDA has mandatory recall authority for non-
35 food items such as biological products, medical devices, and
36 radiation-emitting electronic products; and

37 WHEREAS, The National Highway Traffic Safety
38 Administration has mandatory recall authority for motor
39 vehicles, motor vehicle equipment, child safety seats, and tires;
40 and

1 WHEREAS, The United States Coast Guard has mandatory
2 recall authority for boats, boating equipment, and flotation
3 devices; and

4 WHEREAS, The Environmental Protection Agency has
5 mandatory recall authority for pesticides and emission control
6 devices; and

7 WHEREAS, The Department of Housing and Urban
8 Development has mandatory recall authority for manufactured
9 housing; and

10 WHEREAS, In addition to mandatory recall authority,
11 agencies responsible for the safety of nonfood products can also
12 require a company to notify the agency when it has distributed a
13 potentially unsafe product, establish recall requirements, and
14 impose monetary penalties if a company does not cooperate; and

15 WHEREAS, Continued weaknesses in our current voluntary
16 system for monitoring food recalls heighten the risk that unsafe
17 food will remain in the food supply and ultimately be consumed;
18 and

19 WHEREAS, It is critical that the USDA and FDA have the
20 information and authority to act quickly to remove potentially
21 unsafe food from the marketplace and better protect consumers in
22 the event of a serious food outbreak; now, therefore, be it

23 *Resolved by the Senate and the Assembly of the State of*
24 *California, jointly*, that the Legislature of the State of California
25 memorializes the President and the Congress of the United States
26 to give the USDA and the FDA the authority to implement a
27 mandatory food recall system to assure that consumers, public
28 health officials, and others have full public access to recall
29 information; and be it further

30 *Resolved*, That the Chief Clerk of the Senate transmit copies of
31 this resolution to the President of the United States, to all
32 members of the Congress of the United States, and to the
33 Administrator of the United States Department of Agriculture
34 and the Federal Food and Drug Administration.